

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

MARILYN CASTILLO, MELANIE MELENDEZ, §
BRITTANY ARMENDARIZ, and §
ESMERALDA ABALOS, §
Plaintiffs, §

CASE NO. 7:23-CV-00168

v. §

HANDS OF COMPASSION HOME CARE, LLC, §
Defendant. §

**APPENDIX IN SUPPORT OF PLAINTIFFS' RESPONSE TO
DEFENDANT'S MOTION FOR EXTENSION OF TIME TO COMPLETE
DISCOVERY AND FILE DISPOSITIVE MOTIONS**

TO THE HONORABLE DAVID COUNTS, UNITED STATES DISTRICT JUDGE:

Plaintiffs Marilyn Castillo, Melanie Melendez, Brittany Armendariz, and Esmeralda Abalos (the "Plaintiffs") file their Appendix in Support of Plaintiffs' Response to Defendant's Motion for Extension of Time to Complete Discovery and File Disposition Motions as follows:

Exhibit Nos.	Document(s)	App. Nos.
1.	September 2024 email communication between counsel for Plaintiffs and Defendant regarding settlement discussions and Defendant's counsel's draft of second motion for extension of discovery (8 pages)	1-8
2.	Affidavit of Brandon C. Callahan dated October 3, 2024 (2 pages)	9-10

Respectfully submitted,

By: /s/ Fernando M. Bustos

Fernando M. Bustos; SBN: 24001819

fbustos@bustoslawfirm.com

Matthew N. Zimmerman; SBN: 24100386

mzimmerman@bustoslawfirm.com

Brandon C. Callahan; SBN: 24096175

bcallahan@bustoslawfirm.com

BUSTOS LAW FIRM, P.C.

P.O. Box 1980

Lubbock, Texas 79408-1980

Telephone: (806) 780-3976

Facsimile: (806) 780-3800

Counsel for Plaintiffs Marilyn Castillo, Melanie Melendez, Brittany Armendariz, and Esmeralda Abalos

Exhibit 1

Brandon Callahan

From: Brandon Callahan
Sent: Thursday, September 26, 2024 11:10 AM
To: Murphy, Andrew S.
Cc: Ben Casey; Fernando Bustos; Zebbe Hernandez; Morrell, Benjamin S.; Dockett, Alicia
Subject: Re: Case No. 7:23-CV-00168-DC-RCG; Marilyn Castillo, et al v. Hands of Compassion Home Care, LLC

Andrew:

I didn't suggest *dictating* to Judge Counts when he should conduct the trial, I simply stated that we should make a request to continue the trial date. But I understand if you are not comfortable making that request.

After further review of your proposed joint motion, I don't think I can be a part of it. The motion is not in my clients' best interests and makes false representations to the Court. It states that the parties engaged in settlement negotiations, but this is false. Your client did not engage in any negotiations and simply blew off my clients' offer. The whole point of postponing depositions was to engage in settlement discussions and avoid unnecessary costs, which was your idea to begin with. I would not have agreed to the first extension if I had known your client was not wanting to negotiate in good faith (i.e., not even make an offer). Lastly, I see no benefit to my clients joining a motion that asks to extend the dispositive motion deadline.

If you have a solution that will be mutually beneficial, please let me know. Otherwise, I cannot sign off on this joint motion.

Sincerely,

Brandon Callahan

From: "Murphy, Andrew S." <AMurphy@taftlaw.com>
Date: Thursday, September 26, 2024 at 10:10 AM
To: Brandon Callahan <bcallahan@bustoslawfirm.com>
Cc: Zebbe Hernandez <ZHernandez@bustoslawfirm.com>, "Morrell, Benjamin S." <BMorrell@taftlaw.com>, "Dockett, Alicia" <ADockett@taftlaw.com>, Ben Casey <BCasey@bustoslawfirm.com>, Fernando Bustos <fbustos@bustoslawfirm.com>
Subject: RE: Case No. 7:23-CV-00168-DC-RCG; Marilyn Castillo, et al v. Hands of Compassion Home Care, LLC

Brandon,

I'm not comfortable attempting to dictate to Judge Counts when he should conduct the trial in this case. He will either keep the trial date or move it depending on his availability and preference. If you want to add some language to the motion, feel free to add it and we will consider it. Otherwise, I suggest we file the motion as is.

Thank you,

Andrew

From: Brandon Callahan <bcallahan@bustoslawfirm.com>
Sent: Wednesday, September 25, 2024 3:00 PM
To: Murphy, Andrew S. <AMurphy@taftlaw.com>
Cc: Zebbe Hernandez <ZHernandez@bustoslawfirm.com>; Morrell, Benjamin S. <BMorrell@taftlaw.com>; Dockett, Alicia <ADockett@taftlaw.com>; Ben Casey <BCasey@bustoslawfirm.com>; Fernando Bustos <fbustos@bustoslawfirm.com>
Subject: Re: Case No. 7:23-CV-00168-DC-RCG; Marilyn Castillo, et al v. Hands of Compassion Home Care, LLC

The fact remains your client refuses to make an offer and engage in settlement negotiations like you said they would. Notably, the only employee whose back wage demand materially increased was that of Ms. Melendez, who continues to work there. In fact, Ms. Armendariz demand even decreased by nearly \$6,000. It should be expected that attorney fees would increase after 5 months of discovery, so I don't know why your client would expect me to bid against myself.

Regardless, I will join your motion, with the requirement that you please check with the court and see when their next rolling civil docket takes place, and include a request for continuance in the motion that the trial be moved to the next civil trial time frame. I didn't like that the court moved the trial date on its own the last time a discovery extension was requested. Assuming you agree to this, please send me another draft of the motion.

Also, in anticipation of the court granting the motion, please give me some availability dates for your corporate reps deposition there in Midland. I will take their deposition in person.

Sincerely,

BRANDON C. CALLAHAN
Attorney



1001 Main Street, Suite 501 (79401)
P.O. Box 1980
Lubbock, Texas 79408-1980

P. [806.780.3976](tel:806.780.3976) E. bcallahan@bustoslawfirm.com
F. [806.780.3800](tel:806.780.3800) W. bustoslawfirm.com

Treasury Circular 230 Disclosure -- To comply with requirements imposed by the Internal Revenue Service, we inform you that any advice contained in this written communication (including any attachment) is not intended or written to be used and cannot be used, by any person for the purpose of avoiding tax penalties.

CONFIDENTIALITY NOTICE: The information contained in this ELECTRONIC MAIL transmission is privileged and confidential, intended only for the use of the individual or entity to whom it was addressed. It may also be subject to the attorney-client privilege or be privileged work product or proprietary information. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication (other than to the addressee(s)), is strictly prohibited.

From: "Murphy, Andrew S." <AMurphy@taftlaw.com>
Date: Wednesday, September 25, 2024 at 12:29 PM
To: Brandon Callahan <bcallahan@bustoslawfirm.com>
Cc: Zebbe Hernandez <ZHernandez@bustoslawfirm.com>, "Morrell, Benjamin S." <BMorrell@taftlaw.com>, "Dockett, Alicia" <ADockett@taftlaw.com>, Ben Casey

<BCasey@bustoslawfirm.com>, Fernando Bustos <fbustos@bustoslawfirm.com>

Subject: Re: Case No. 7:23-CV-00168-DC-RCG; Marilyn Castillo, et al v. Hands of Compassion Home Care, LLC

Brandon,

We were interested in reaching a reasonable settlement until your clients increased their demand in response to documents that cast serious doubt about the veracity of their interrogatory responses. We had assumed the movement would be in the opposite direction.

Let us know if you will join the motion.

Thank you,

Andrew

Sent from my iPhone

On Sep 25, 2024, at 12:59 PM, Brandon Callahan <bcallahan@bustoslawfirm.com> wrote:

Hi Andrew:

I am a little confused here. You implied that your client was interested in settlement discussion, but they can't bring themselves to make a counteroffer to my clients most recent offer, nor has your client made an offer of their own for more than \$5,000 (which was always a non-starter). It seems there was never any real settlement interest from your client to begin with, and having prolonged the deadlines in this case to for the sake of settlement seemed like a waste of time.

Sincerely,

Brandon

From: "Murphy, Andrew S." <AMurphy@taftlaw.com>

Date: Tuesday, September 24, 2024 at 12:26 PM

To: Zebbe Hernandez <ZHernandez@bustoslawfirm.com>

Cc: Brandon Callahan <bcallahan@bustoslawfirm.com>, "Morrell, Benjamin S."

<BMorrell@taftlaw.com>, "Dockett, Alicia" <ADockett@taftlaw.com>

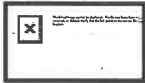
Subject: RE: Case No. 7:23-CV-00168-DC-RCG; Marilyn Castillo, et al v. Hands of Compassion Home Care, LLC

Brandon,

Thank you for the updated settlement demand, but it seems that we are too far apart for settlement to be a realistic option at this point.

With the discovery deadline coming up on Friday, we'd like to get one more extension motion on file this week. Please let us know if you agree with the schedule outlined in the attached draft.

Andrew



Andrew S. Murphy
Attorney
AMurphy@taftlaw.com
Dir: 312.836.4145
Tel: 312.527.4000 | Fax: 312.754.2373
111 E. Wacker Drive, Suite 2600
Chicago, Illinois 60601-4208

taftlaw.com



Taft expands on Jan. 1, 2025 to the Mountain West region with the addition of Sherman & Howe a prominent 130-year-old law firm. Learn more [here](#).

This message may contain information that is attorney-client privileged, attorney work product or otherwise confidential. If you are not an intended recipient, use and disclosure of this message are prohibited. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: Zebbe Hernandez <ZHernandez@bustoslawfirm.com>
Sent: Monday, September 9, 2024 5:28 PM
To: Murphy, Andrew S. <AMurphy@taftlaw.com>
Cc: Brandon Callahan <bcallahan@bustoslawfirm.com>; Zebbe Hernandez <ZHernandez@bustoslawfirm.com>; Morrell, Benjamin S. <BMorrell@taftlaw.com>; Dockett, Alicia <ADockett@taftlaw.com>
Subject: RE: Case No. 7:23-CV-00168-DC-RCG; Marilyn Castillo, et al v. Hands of Compassion Home Care, LLC

Dear Mr. Murphy ~

Please see the attachment settlement demand regarding the above-referenced matter.

Sincerely,

ZEBBE DEE HERNANDEZ

Paralegal

5504 114th Street (79424)

P.O. Box 1980

Lubbock, Texas 79408-1980

P. [806.780.3976](tel:806.780.3976) E. zhernandez@bustoslawfirm.com

F. [806.780.3800](tel:806.780.3800) W. bustoslawfirm.com

<[image001.jpg](#)>

Treasury Circular 230 Disclosure -- To comply with requirements imposed by the Internal Revenue Service, we inform you that any advice contained in this written communication (including any attachment) is not intended or written to be used and cannot be used, by any person for the purpose of avoiding tax penalties.

CONFIDENTIALITY NOTICE: The information contained in this ELECTRONIC MAIL transmission is privileged and confidential, intended only for the use of the individual or entity to whom it was addressed. It may also be subject to the attorney-client privilege or be privileged work product or proprietary information. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication (other than to the addressee(s)), is strictly prohibited.

Please note, we moved our office effective August 27, 2024 to 5504 114th Street, Lubbock, Texas 79424.

Our mailing address of P.O. Box 1980, Lubbock, Texas 79408-1980 will remain the same.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

MARILYN CASTILLO, MELANIE
MELENDEZ, BRITTANY
ARMENDARIZ, and ESMERALDA
ABALOS,

Plaintiffs,

v.

HANDS OF COMPASSION HOME
CARE, LLC,

Defendant.

Case No. 7:23-CV-00168

District Judge Counts

Magistrate Judge Griffin

**SECOND JOINT MOTION FOR EXTENSION OF TIME TO
COMPLETE DISCOVERY AND FILE DISPOSITIVE MOTIONS**

The Parties, by and through their respective undersigned counsel, jointly request that the Court extend the deadlines for completing discovery and filing dispositive motions in this case. In support of this motion, the Parties state as follows:

1. The current deadline for the Parties to complete discovery is September 26, 2024. The current deadline for the Parties to file dispositive motions is October 28, 2024.
2. The Parties have been engaged in settlement negotiations in an attempt to resolve this matter without further proceedings in this Court. To foster these negotiations, the Parties postponed depositions during this time so as to minimize further expense.
3. However, the Parties are now at an impasse and have determined that settlement at this juncture is unlikely.
4. Accordingly, the Parties request additional time to complete discovery and take depositions, which will necessitate additional time to file dispositive motions.

5. The Parties request that the Court extend the deadline to complete discovery by 60 days, up to and including November 25, 2024, and extend the deadline to file dispositive motions by 80 days (due to the holidays), up to and including January 16, 2025.

Respectfully submitted,

MARILYN CASTILLO, MELANIE
MELENDEZ, BRITTANY
ARMENDARIZ, and ESMERALDA
ABALOS

By: /s/ Brandon C. Callahan
Fernando M. Bustos; SBN: 24001819
fbustos@bustoslawfirm.com
Brandon C. Callahan; SBN: 24096175
bcallahan@bustoslawfirm.com
Matthew N. Zimmerman; SBN: 24100386
mzimmerman@bustoslawfirm.com
BUSTOS LAW FIRM, P.C.
P.O. Box 1980
Lubbock, Texas 79408-1980
(806) 780-3976 (806)
780-3800 FAX

Counsel for Plaintiffs

HANDS OF COMPASSION HOME
CARE, LLC

/s/ Andrew S. Murphy
Andrew S. Murphy (#24080244)
Benjamin S. Morrell (TN Bar No. 035480)
TAFT STETTINIUS & HOLLISTER LLP
111 E. Wacker Drive, Suite 2600
Chicago, IL 60601
Phone: (312) 527-4000
Fax: (312) 527-4011
amurphy@taftlaw.com

Layne Rouse (#24066007)
SHAFFER, DAVIS, O'LEARY & STOKER
700 N. Grant, Ste. 201 (79761)
P.O. Drawer 1552
Odessa, TX 79760-1552
(432) 332-0893
Fax: (432) 333-5002
lrouse@shaferfirm.com

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2024, I electronically filed the foregoing document with the Clerk of the Court using the electronic court filing system, which will provide notification of such filing to all counsel of record.

/s/ Andrew S. Murphy

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

Exhibit 2

MARILYN CASTILLO, MELANIE MELENDEZ, §
BRITTANY ARMENDARIZ, and §
ESMERALDA ABALOS, §
Plaintiffs, §

CASE NO. 7:23-CV-00168

v. §

HANDS OF COMPASSION HOME CARE, LLC, §
Defendant. §

**AFFIDAVIT OF BRANDON C. CALLAHAN IN SUPPORT OF
PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION FOR EXTENSION OF TIME
TO COMPLETE DISCOVERY AND FILE DISPOSITIVE MOTIONS**

STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, on this day personally appeared BRANDON C. CALLAHAN, who, being by me duly sworn on his oath, deposed as follows:

1. "My name is BRANDON C. CALLAHAN. I reside in Lubbock County, Texas. I am over the age of 18, of sound mind; have never been convicted of any crime involving moral turpitude; and have personal knowledge of the following facts. I am fully competent to make this Affidavit. I am licensed to practice law in the State of Texas and my Texas Bar number is 24096175. My business address is 1001 Main Street, Suite 501, Lubbock, Texas 79401. I am an attorney representing Plaintiffs in the above-styled and numbered cause. I declare under penalty of perjury that the following is true and correct.

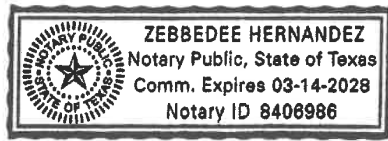
2. "Appendix pages 1-8 are true and correct copies of the relevant September 2024 email communications between counsel for Plaintiffs and Defendant regarding settlement discussions and Defendant's counsel's draft of second motion for extension of discovery;

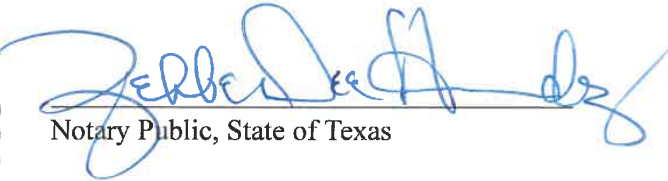
"Further, affiant sayeth not."



BRANDON C. CALLAHAN

SUBSCRIBED AND SWORN TO before me on this 3rd day of October, 2024.




Notary Public, State of Texas